

ORIGINAL

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Civil Action: 03-CV-0288 A

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Robert R. Smith, Cynthia A. Smith,
New York State Tax Commission, Bank of Akron, Niagara Frontier
Transportation Authority, The Buffalo News, a division of
Berkshire Hathaway, Inc., People of the State of New York,
Liberty Communications, Inc., New York State Department of
Taxation & Finance, Niagara Mohawk Power Corp., Erie County
Department of Social Services, FCC National Bank First Bank of
Chicago, Root Car Mart Inc., Sears, Roebuck & Company, Empire
Portfolios, Inc., Ford Motor Credit Company, Midland Credit
Management, Inc., JESSICA SMITH

Defendants.

U.S. MARSHAL'S REPORT OF SALE

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

TO THE HONORABLE: THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NEW YORK

I, Peter A. Lawrence, United States Marshal for the Western
District of New York, designated by the Judgment of Foreclosure
and Sale of this Court filed on 1/29/2004 and entered in the
office of the Clerk of this Court on 1/29/2004, to make the sale
of the mortgaged lands and premises therein particularly
described and directed to be sold, do respectfully report under
oath as follows:

FIRST: I caused due notice of the sale of the lands and

premises by me at public auction on 3/23/2004, at the County Courthouse, to be given and published according to law and the rules of practice of this Court, as more fully appears by the Certificate of Service by Mail of Kris Morone showing the due service by mail of a true copy of said Notice of Sale upon the defendants and/or attorneys for the defendants entitled to such notice, attached hereto, and as further appears by the return of posting of a Deputy United States Marshal showing the due posting of true copies of the said Notice of Sale in three conspicuous public places in Erie, where the mortgaged premises are located, attached hereto; and as still further appears by the Affidavit of Publication from ``The Buffalo Law Journal'', a newspaper of general circulation in Erie, where the mortgages premises are located, showing due publication of said Notice of Sale once weekly for four consecutive weeks prior to the date of the sale, attached hereto.

SECOND: That at the time and place for which the said sale was noticed, a Deputy United States Marshal attended in person and, agreeably to such notice, offered the said mortgaged lands and premises for sale to the highest bidder, upon the terms of sale hereto attached and publicly read by me previous to the bidding, and that the said mortgaged lands and premises were then and there struck off by him to Ronald R. Miller and Mary Ann Miller for the sum of \$51,000.00 that being the highest sum bid therefore.

THIRD: That I have credited to the plaintiff on account of the purchase price, as aforesaid, expenses of sale incurred by the plaintiff, as follows:

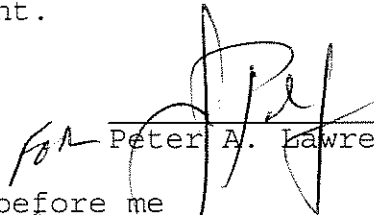
United States Marshal's fees on sale	\$100.00
United States Marshal's fee for Posting Notice of Sale	\$113.25
Fee for Publication of Notice of Sale	\$419.60

And I have further allowed to the Plaintiff on account of such sale the sum of \$820.50, for costs as directed by said judgment of foreclosure and sale, and also the sum of \$107,025.88 and interest for the sum due on the bond and mortgage upon which this action was brought, and directed to be paid to the plaintiff by said judgment.

FOURTH: After the disposal of the purchase money, as above reported, the amount of residue of the mortgage debt (deficiency) remaining unsatisfied arising upon the sale is the sum of \$60,718.84, with interest thereon from the date of this report.

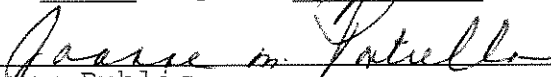
FIFTH: Attached is a statement showing the several items aforesaid and the mode of computation of such deficiency.

SIXTH: That I have made, executed and delivered to Ronald R. Miller and Mary Ann Miller, a good and sufficient deed of conveyance of the mortgaged premises, containing the description set forth in said judgment.



for Peter A. Lawrence, U.S. Marshal

Subscribed and sworn to before me
this 7th day of April, 2004.


Notary Public

JOANNE M. PONTRELLO
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires Oct. 7, 2006

STATEMENT

Amount due on bond/note and mortgage, as per judgment	\$107,025.88
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Interest on principal amount of \$80,456.44 at 8.75% from 12/3/2003 to 1/29/2004 date of Judgment:	\$ 1,099.53
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Interest on Judgment amount of \$107,025.88 at 1.20% from 1/29/2004, date of Judgment, to 3/23/2004, date of sale	\$ 190.08
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\$108,315.49

Amount of Purchase Money	\$51,000.00
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Less Expenses of Sale:

U.S. Marshal's Fee on Sale	\$100.00
U.S. Marshal's Fee on Posting	\$113.25
Advertising	\$419.60
Plaintiff's costs	\$820.50
Attorney's fee granted in Judgment	\$1,950.00

Total expenses of sale	\$3,403.35
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Sale Price Less Expenses of Sale	\$47,596.65
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Deficiency	\$60,718.84
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CERTIFICATE OF SERVICE BY MAIL

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

CV NO. 03-CV-0288 A

-v-

Robert R. Smith, Cynthia A. Smith, ET AL.,

Defendants.

The undersigned hereby certifies that she is an employee of Forsyth, Howe, O'Dwyer, Kalb & Murphy, PC, attorneys for the plaintiff and is a person of such age and discretion as to be competent to serve papers.

That on February 17, 2004, she served a copy of the **Attached Judgment and Notice of Sale, by placing a copy in a post-paid envelope addressed to the persons named below, at the place and** address stated below, which is the last known address, and by depositing said envelope and contents in the United States mail at One Chase Square, Suite 1900, Rochester, NY 14604.

Robert R. Smith
2421 School Street
North Collins, NY 14111

Cynthia A. Smith
2421 School Street
North Collins, NY 14111,

New York State Tax Commission
c/o Eliot Spitzer, Attorney General
Real Property Bureau, The Capitol
Albany, NY 12224
Attn: Susan M. Cuff, Paralegal

Bank of Akron
9470 Clarence Center Road
Clarence Center, NY 14032

Niagara Frontier Transportation Authority
c/o Ruth Keating, Senior Counsel
181 Ellicott Street
Buffalo, NY 14203

The Buffalo News, a division of Berkshire Hathaway, Inc.
P.O. Box 100
One News Plaza
Buffalo, NY 14240

People of the State of New York
c/o Eliot Spitzer, Attorney General
Real Property Bureau, The Capitol
Albany, NY 12224
Attn: Susan M. Cuff, Paralegal

Liberty Communications, Inc.
1524 Kenmore Avenue
Buffalo, NY 14216

New York State Department of Taxation & Finance
c/o Eliot Spitzer, Attorney General
Real Property Bureau, The Capitol
Albany, NY 12224
Attn: Susan M. Cuff, Paralegal

Niagara Mohawk Power Corp.
1404 Main Street
Buffalo, NY 14202

Erie County Department of Social Services
c/o Howard B. Frank, Esq.
95 Franklin Street
Buffalo, NY 14202

FCC National Bank First Bank of Chicago
201 North Walnut Street
Wilmington, DE

Root Car Mart Inc.
c/o Joseph F. Saeli, Jr. Esq.
4600 Main Street, Suite 200
Amherst, NY 14226

Sears, Roebuck & Company
Eastview Mall
Victor, NY 14586

Empire Portfolios, Inc.
485 Underhill Blvd.
Syossett, NY 11791

Ford Motor Credit Company
1078 John Muir Blvd.
Amherst, NY 14202

Midland Credit Management, Inc.
c/o Upton, Cohen & Slamowitz
Mary D. Milone, Esquire
485 Underhill Blvd.
Syosset, NY 11791

JESSICA SMITH
2421 School Street
North Collins, NY 14111

A handwritten signature in dark ink, appearing to read "Kris Morone", written over a horizontal line.

Kris Morone

1 of 1

04-0446

03CV-0288A

REFEREE'S
NOTICE OF SALE
IN FORECLOSURE
2421 School Street
North Collins, New York

AFFIDAVIT OF PUBLICATION

Buffalo Law Journal,

472 DELAWARE AVENUE BUFFALO, N.Y. 14202

State of New York }
County of Erie } ss.
City of Buffalo }

Nancy Burgasser being duly sworn,

deposes and says, that she is Principal Clerk of Buffalo Law Journal, a newspaper published in said City; that the notice, of which the annexed printed slip taken from said newspaper is a copy, was inserted and published therein ONCE a week for 4 weeks, the first insertion being on the 23rd day of February 2004

and the last insertion being on the 15th day of March 2004

(SIGNED)

Nancy Burgasser

Sworn to before me this 15th day of March 2004

Kimberly Schaus

Commissioner of Deeds, Buffalo, N.Y.

My commission expires Dec. 31, 2004

Notice: Successful bidders must have certified funds totaling 10% or more of the bid amount, payable to the "U.S. Marshal's Office".

By: PETER A. LAWRENCE,
U.S. Marshal

FORSYTH, HOWE LAW FIRM,
One Chase Sq., Suite 1900,
Rochester, NY 14604 (585) 325-7515.
04-0446 feb23,mar1,8,15

United States District Court,
Western District of New York —
United States of America, Plaintiff vs.
Robert R. Smith, Cynthia A. Smith,
New York State Tax Commission,
Bank of Akron, Niagara Frontier
Transportation Authority, The Buffalo
News, a division of Berkshire
Hathaway, Inc., People of the State of
New York, Liberty Communications,
Inc., New York State Department of
Taxation & Finance, Niagara Mohawk
Power Corp., Erie County Department
of Social Services, FCC National
Bank First Bank of Chicago, Root Car
Mart Inc., Sears, Roebuck &
Company, Empire Portfolios, Inc.,
Ford Motor Credit Company, Midland
Credit Management, Inc., Jessica
Smith, Defendants.

Civil Action: 03-CV-0288 A

PLEASE TAKE NOTICE that pursuant to a judgment of foreclosure and sale, duly made and entered in the above entitled action on 1/29/2004 and entered in the office of the Clerk of this Court on 1/29/2004, I, Peter A. Lawrence, United States Marshal for the Western District of New York, named in said judgment, designated to make the sale of the mortgaged premises described as 2421 School Street, North Collins, NY 14111, more fully described in said judgment, will sell in one parcel at public auction to the highest bidder on the

23rd DAY OF MARCH, 2004

at 9:00 a.m. at the: Foreclosure Alcove of the Erie County Hall, 92 Franklin Street, Buffalo, New York.

The sale and transfer of said premises will be subject to easements, covenants and restrictions of record; violations, zoning regulations and ordinances of the City, Town or Village and County in which the premises lie, existing leases, tenancies and occupancies; and any state of facts that an accurate instrument survey and inspection of the premises would disclose.

See Instructions for "Service of Process by the U.S. Marshal"
on the reverse of this form.

Please post the notice of sale 3n three places in the County of Erie, NY with at least ONE Posting in the Town of North Collins.

~~X~~ ~~F~~ ~~A~~ ~~M~~ ~~O~~ ~~R~~ ~~O~~ ~~N~~ ~~E~~

U.S. Department of Justice
United States Marshals Service**PROCESS RECEIPT AND RETURN**See Instructions for "Service of Process by the U.S. Marshal"
on the reverse of this form.

PLAINTIFF United States of America	COURT CASE NUMBER 03-CV-288 A
DEFENDANT Robert R. Smith and Cynthia A. Smith	TYPE OF PROCESS Terms of Sale
SERVE ➡ AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN Sale in Buffalo, NY ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) Property: 2421 School Street, North Collins, NY 14111

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:	Number of process to be served with this Form - 285	1
Kris Morone Foreclosure Manager PORSYTH, HOWE LAW FIRM One Chase Square, Suite 1900 Rochester, NY 14604	Number of parties to be served in this case	1
	Check for service on U.S.A.	5

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Please conduct the foreclosure sale on March 24, 2004 at 9:00 a.m. in the Foreclosure Alcove of the Erie County Hall, 92 Franklin Street, Buffalo, NY.

An Agency Rep will attend the sale & announce the bid.

Signature of Attorney or other Originator requesting service on behalf of: Kris Morone	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER (585) 325-7515	DATE 2/17/2004
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process 1	District of Origin No. 55	District to Serve No. 55	Signature of Authorized USMS Deputy or Clerk M. Hickey	Date 02/19/04
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I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.
Address (complete only if different than shown above)	Date of Service 3/23/04 Time 2:15 pm Signature of U.S. Marshal or Deputy [Signature]

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
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REMARKS:

51,000.00 **RENTED MILLER**
2108 HARRISON AVE
N. COLLINS, NY 14111
(716) 337-3479

50,000.00

CHRISTOPHER CORN
PO BOX 1502
N. COLLINS, NY 14111
(716) 597-6727

NOTE

MEMORANDUM OF SALE
(PURCHASE CONTRACT FOR 3RD PARTY SALE)

RE: USA vs. Robert R. Smith, Cynthia A. Smith

03-CV-0288 A

Mortgaged Premises: 2421 School Street, North Collins, NY 14111

I(We), RONALD & MARY ANN MILLER, have the date of this sale,
3/23/2004, purchased the premises described as 2421 School Street, North Collins, NY 14111, as
described in the Notice of Sale in this case, for the sum of \$ 57,000.00, and
have paid at this sale, a deposit in the amount of \$ 10,000.00, and hereby
promise(s) and agree(s) to comply with all of the terms and conditions of the sale of said
premises as mentioned and set forth in the attached Terms of Sale.

SIGN BELOW: (BUYERS: PLEASE PRINT YOUR FULL NAME(S), INCLUDING
THE FULL NAME(S) THAT WILL APPEAR ON THE DEED & TITLE PAPERS:

Purchaser(s): X Ronald R. Miller X Mary Ann Miller
Signature(s)

Purchasers
Address: 2108 HARRISON AVE.
N Collins, ny Telephone:
14111 (216) 337-3479

Purchasers
Attorney: _____

Address: _____

Telephone: _____